IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 102 of 2005

Between:

1 B.Satish Goud, S/O.Narsihmulu,
R/o. Plot No. 58, SBH Colony, LB Nagar, R.R.District.
2 K. Yadagiri, S/o. Sayanna,
R/o. H.No. 3-1-42, Bahadurguda, Dharmapur, LB Nagar,

R.R.District.
3 K. Ramamurthy, S/o. Sayanna,
R/o. H.No.3-1-42, Bahadurguda, Dharmapur, LB Nagar,

R.R.District.
4 K. Suribabu, S/o. Sathaiah,
Dharmapur, LB Nagar, R.R.District.

..... PETITIONERS

AND

1 The Police Station, LB Nagar, rep. by Sub-Inspector of Police.
at L.B. Nagar, R.R.District.
2 B. Nagesh, S/o. Anjaiah,
R/o. Plot No.1, H.No.3-1-523, L.B. Nagar, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not conducting the proper investigation into FIR No. 286/2003 for the offence U/s. 420, 406 and

FIR.No. 736/2003 for the offence U/s. 420, 465, 468, 406 and 506 of IPC Lodged by the petitioners as against the 2nd respondent, as illegal, unlawful, contrary to law and against section 154 of Cr.P.C. and consequently direct the 1st to expedite proper investigation in the above two complaints and take steps to arrest the 2nd respondent and his associates and file charge sheet as against him to the concerned court and pass such other order or orders.

Counsel for the Petitioner:MR.M.DAMODAR REDDY

Counsel for the Respondent No.1: GP FOR HOME

Counsel for Respondent No.2: None appeared

The Court at the stage of admission made the following ORDER:

Petitioners submitted a complaint before the Court of Judicial Magistrate of First Class, East and North, Hyderabad, R.R.District alleging certain criminal acts against the second respondent. The complaint, in turn, was referred to the first respondent. Crime No.736 of 2003 was registered. The petitioners allege that no action has been taken by the first respondent though more than one year has elapsed.

Heard learned counsel for the petitioners and learned Government Pleader for Home.

On finding that the complaint submitted by them with the first respondent was not being acted upon, the petitioners have availed the remedy under Section 200 Cr.P.C. and approached the learned Magistrate. The learned Magistrate has chosen to refer the matter to the first respondent under sub-section (3) of Section 156 Cr.P.C. If the petitioners find that the first respondent has not taken up the investigation in its earnest, it is not as if they are without any remedy. Referring the matter to the police for investigation, by a Magistrate, is one of the steps under Section 202 Cr.P.C. On making such a reference, the Magistrate does not become *functus officio*. He still holds control over the matter. In case the Magistrate finds that the investigation is not being undertaken properly, he can take necessary steps and in a given case may straight away take cognizance of the offence. When such courses are open for the Magistrate, this Court does not find any basis to interfere at this stage.

Hence, the writ petition is disposed of leaving it open to the petitioners to approach the learned Magistrate, who referred the matter to the first respondent

under sub-section (3) of Section 156 Cr.P.C., and as and when the petitioners approach, the learned Magistrate shall take necessary steps in accordance with the relevant provisions. There shall be no order as to costs.

18.01.2005

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To

1 The Police Station, LB Nagar, rep. by Sub-Inspector of Police.
at L.B. Nagar, R.R.District.

2 Two CCs. to the G.P. for Home, High Court of A.P.,

Hyderabad(OUT).

3 Two CD copies.